

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ORDER

Plaintiff Samantha Hall sued defendants Conoco Inc., ConocoPhillips Company, and Phillips 66 alleging her exposure to benzene vapors emitted from defendants' refinery in Ponca City, Oklahoma caused her to develop acute myelocytic leukemia (AML inv(16)). She asserted negligence, negligence pro se and strict liability claims against defendants. Defendants filed separate motions for summary judgment on general causation and specific causation. By separate order the court has concluded that the specific causation opinions of plaintiff's experts, Drs. Gore and Calvey, are unreliable when tested against Daubert¹ standards and must be excluded.² Without their testimony plaintiff cannot demonstrate

¹ *Daubert v. Merrell Dow Pharmas., Inc.*, 509 U.S. 579 (1993).

² With her summary judgment response plaintiff provides evidence of petroleum odors as circumstantial evidence of defendants' benzene emissions. However, plaintiff did not demonstrate that plaintiff personally experienced the odors, as required by *Holstine v. Texaco*, 2001 WL 605137 (Okla. Dist. Ct. Apr. 16, 2001) and *Christian v. Gray*, 65 P.3d 591 (Okla. 2003). And, as defendants point out, many of the incidents listed occurred when plaintiff was no longer residing near the Refinery. They, alone, are insufficient to demonstrate the exposure needed to "rule in" benzene as a potential cause of plaintiff's disease.

that benzene specifically caused plaintiff's AML(inv16), an essential element of each of her claims.

Accordingly, defendants' motion for summary judgment on specific causation [Doc. #94] is granted. That decision moots defendants' motion for summary judgment on general causation [Doc. #98]; their motion for partial summary judgment on plaintiff's punitive damages claim under 23 Okla. Stat. sec 9.1 [Doc. #101], and their remaining Daubert motions [Doc. Nos. 95, 99, 100]. Judgment for defendants will be entered separately.

IT IS SO ORDERED.

Dated this 31st day of March, 2017.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE